

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

EDWARD LEE REEVE,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 15-3111-CV-S-BP-P
)	
TEXAS COUNTY JAIL, et al.,)	
)	
Defendants.)	

ORDER

This is an action for damages and other relief filed pursuant to 42 U.S.C. § 1983.

Plaintiff's claims arose at Texas County Jail in Houston, Missouri.

Pending before the Court is defendant Beer's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) for plaintiff's failure to state a claim upon which relief may be granted. Defendant's motion may not be granted unless "it is clear that no relief can be granted under any set of facts that could be proved consistent with [plaintiff's] allegations." *Frey v. City of Herculanum*, 44 F.3d 667, 671 (8th Cir. 1995) (quotation marks omitted).

Defendant contends that "plaintiff has failed to allege sufficient facts against Dr. Beers to satisfy the elements of a 42 U.S.C. 1983 action." Doc 31, p. 2. In response, plaintiff states that "Dr. Beers having known plaintiff's medical requirements failed to provide necessary medical care and discontinued medications due to false/alleged accusations." Doc 34, p. 1-2.

Based on the above, the Court finds that defendant's motion to dismiss should be denied. *See Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976) (a prison official's deliberate indifference to a

prisoner's serious medical needs violates the prisoner's constitutional right to be free from cruel and unusual punishment).

Accordingly, it is **ORDERED** that:

- (1) defendant's motion to dismiss for failure to state a claim (Doc. 31) is denied; and
- (2) deadlines in the pretrial scheduling order (Doc. 30) apply to Dr. Beers.

/s/ Beth Phillips
BETH PHILLIPS
UNITED STATES DISTRICT JUDGE

Kansas City, Missouri,

Dated: October 22, 2015.